

### REMARKS

Reconsideration of this application is respectfully requested in view of the foregoing amendment and the following remarks.

Claims 35-37 and 43-49 were pending in this application. In this Amendment, Applicants have amended claims 35-37, 43, 45, and 47 and have canceled claims 44 and 46. Accordingly, claims 35-37, 43, 45, and 47-49 will be pending herein upon entry of this Amendment. For the reasons stated below, Applicants respectfully submit that all claims pending in this application are in condition for allowance.

In the Office Action mailed July 16, 2004, the Examiner rejected claims 44 and 45 under 35 U.S.C. § 112, first paragraph, for lacking enablement for the recitation in claim 44 of the determining of modifications needed to garment styles. The Examiner rejected claim 43 under 35 U.S.C. § 112, second paragraph, as indefinite for reciting the moving of garments as part of a method for tracking consumer interest. The Examiner rejected claims 35, 37, and 44-46 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,313,745 to Suzuki ("Suzuki"). The Examiner also rejected claims 36, 43, and 47-49 under 35 U.S.C. § 103(a) as being unpatentable over Suzuki in view of U.S. Patent No. 6,127,928 to Issacman et al. ("Issacman").

In response to the rejection under § 112, first paragraph, Applicants have canceled claim 44 and amended claim 45 to remove the recitation of the determining of modifications. Applicants therefore respectfully submit that the pending claims comply with § 112, first paragraph.

In response to the rejection under § 112, second paragraph, Applicants have amended claim 43 to remove the recitation of moving garments. Applicants therefore respectfully submit that claim 43 complies with § 112, second paragraph.

Regarding the rejections under § 102 and § 103, Applicants have amended the independent claims 35-37 to clarify and emphasize features that are distinguishable over both Suzuki and Issacman. In particular, amended claims 35 and 37 recite methods for tracking defective styles of garments of a retail store that compare, among garments taken to a fitting room by a plurality of customers, the RFID tagged garments that are taken to the fitting room with the RFID tagged garments that are purchased. Amended claim 36 recites a method for tracking consumer interest in display locations within a retail store, which determines display locations that attract greater consumer interest based on the frequency by which garments associated with those display locations are taken to the fitting room. Support for the amendments to claims 35-37 can be found in the specification at, for example, paragraphs [0028] and [0083].

Suzuki discloses a system and method for tracking and recognizing merchandise items carried into a fitting room by a customer. A primary object of Suzuki is to provide the customer with more efficient customer assistance, for example, by recommending other items consistent with those that the customer has tried on and with the customer's profile information. (*See, e.g.*, column 1, lines 8-10 and column 2, lines 10-23.) The system of Suzuki can maintain a purchase and trial history of the customer, which indicates items that the customer has taken to the fitting room and whether the customer has purchased the items or not. (*See, e.g.*, column 2, lines 46-

50.) Suzuki also discloses the determination of popular items based on the frequency that such items are taken to the fitting room. (Column 2, line 66 to column 3, line 2.)

With respect to amended claims 35 and 37, however, Suzuki does not teach or suggest the tracking of defective styles of garments by comparing, among scanned RFID tagged garments from a plurality of customers, RFID tagged garments that are taken to a fitting room and purchased to RFID tagged garments that are taken to a fitting room and not purchased, to determine defective styles having a problem with fit or detailing. While the system of Suzuki may record purchase and trial history for each customer and each product, Suzuki does not teach or suggest any manipulation of the data in this history. Instead, Suzuki merely teaches monitoring the popularity of an item from the history. Indeed, the product history that Suzuki records, as described in reference to Figure 11, is a simple register of separate instances in which a product was tried on. Although Suzuki teaches that this data can include whether the product was purchased in each of these instances, notably, Suzuki does not teach or suggest any compilation or comparison of this data to determine defective styles.

Thus, Applicants respectfully submit that the overall comparison, among scanned RFID tagged garments taken to a fitting room, between RFID tagged garments taken to a fitting room and then purchased to RFID tagged garments taken to a fitting room and not purchased, for the purpose of determining defective styles, is a feature that is patentable over Suzuki. Applicants therefore respectfully submit that amended claims 35 and 37, which recite this feature, are allowable. Applicants have also amended claim 47 to be consistent with amended claim 35.

Applicants further respectfully submit that claims 45-47 and 49 are also allowable due at least to their dependency on an allowable base claim.

With respect to amended claim 36, while Suzuki may disclose the monitoring of the popularity of items in a retail store, Suzuki does not teach or suggest the tracking of consumer interest in display locations within a retail store. Such information would be useful in assessing how effectively merchandise is displayed in a retail store, for example, showing whether advertising tools, such as mannequins and posters, are attracting consumer interest. As the Examiner correctly noted in the Office Action, Suzuki does not disclose using RFID tags to determine the locations of garments on a sales floor and moving garments to display locations that attract greater consumer interest. As such, Suzuki fails to teach or suggest any aspect of display location as it relates to consumer interest. Thus, there would be no suggestion or motivation to even look to Issacman to locate items. Moreover, even if one were to look to Issacman, because Issacman relates to locating items (primarily, files) within a facility, Issacman contains no teaching or suggestion to correlate located items with display locations and to correlate the display locations with consumer interest, for the purpose of tracking consumer interest in display locations within a retail store.

Thus, Applicants respectfully submit that amended claim 36 is patentably distinguishable over Suzuki and Issacman. Applicants further respectfully submit that claims 43 and 48 are also allowable due at least to their dependency on an allowable base claim.

In view of the foregoing, all of the claims in this case are believed to be in condition for allowance. Should the Examiner have any questions or determine that any further action is

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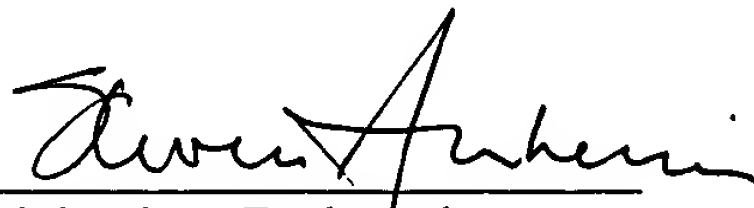
desirable to place this application in even better condition for issue, the Examiner is encouraged to telephone Applicants' undersigned representative at the number listed below.

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Date: October 18, 2004

Respectfully submitted,

CAN ET AL.

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MDB/SPA:kmh